

## California Fair Political Practices Commission

# Frequently Asked Questions: Gift Disclosure

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The FAQs listed below are selected from questions people frequently ask the FPPC. All effort has been made to provide helpful, easy to understand answers to common gift questions. Please note that this fact sheet cannot address all the unique variables and circumstances related to gift disclosure. Individuals are encouraged to contact the FPPC with specific facts by telephone or email. In addition, individuals may submit their questions in a letter to the FPPC's Legal Division in order to receive a written answer. A fact sheet providing a more detailed analysis of the gift and travel rules is found at <http://www.fppc.ca.gov/index.php?id=226>

1. Q. What is the gift limit for 2011-2012?

- A. **\$420:** The 2011-2012 gift limit remains at \$420. This means that gifts from a single, reportable source may not exceed \$420 in a calendar year. For officials and employees who file Statements of Economic Interests (Form 700) under an agency's conflict-of-interest code ("designated employees"), this limit applies only if the official or employee would be required to report income or gifts from that source on the Form 700, as outlined in the "disclosure category" portion of the agency's conflict-of-interest code.

**State Lobbyist & Lobbying Firm Limit:**

**\$10:** State agency officials, including legislators, legislative staff and state commission members, may not accept gifts aggregating more than **\$10 in a calendar month** from a single **lobbyist** or **lobbying firm** if the lobbyist or firm is registered to lobby or should be registered to lobby the official's or employee's agency.

2. Q. I am an analyst for an agency and must complete Form 700. How do I know if I must disclose a gift that I received?

- A. Each local and state agency must have a conflict-of-interest code. That document identifies your position and the types of donors that you must report. Because different agencies have different responsibilities, an analyst for one agency will have different reporting than an analyst working for another agency.

3. Q. During the year, an official received several gifts of meals from the same reportable source. Each meal was approximately \$35. Is the source reportable?

- A. Yes. Gifts from the same reportable source are aggregated, and the official must disclose the source when the total value of all meals exceeds \$50 or more.

4. Q. How does an individual return a gift so that it is not reportable?

- A. Unused gifts that are returned to the donor or reimbursed within 30 days of receipt are not reportable. The recipient may also donate the unused item to a charity or governmental agency within 30 days of receipt or acceptance as long as the donation is not claimed as a tax deduction.

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5. Q. Co-workers exchange gifts of similar value on birthdays. Are these items reportable?
  - A. No. Such gift exchanges with individuals, other than lobbyists, on birthdays, holidays, or similar occasions, are not reportable or subject to gift limits. The gifts exchanged must be similar in value.
6. Q. If an official receives a gift from a reportable source who lives outside of the official's jurisdiction, is the gift still reportable?
  - A. Yes. There are no jurisdictional boundaries for gifts. For example, it is not uncommon for out-of-state companies to bid on California contracts. Thus, the location of the donor is not relevant, but it is relevant whether that donor is a source of the type that is attempting to influence an agency decision.
7. Q. Must an official report gifts received from an individual whom the official is dating?
  - A. No. Gifts of a personal nature exchanged because the individuals are in a established, bona fide dating relationship are not reportable or subject to gift limits.
8. Q. In March, a vendor that provides goods to an agency had its contract renewed by the city council. Within 12 months, the vendor offered entertainment tickets to the spouse of one of the city council members. Does the city council member report the tickets as gifts?
  - A. Yes. Effective February 10, 2010, there is a presumption that such gifts provided to the spouse of a local government agency official who is listed in Government Code Section 87200 (e.g. planning commissioners, city council members, board of supervisors) are gifts to the official. An exception to this rule applies when there is an established working, social, or similar relationship between the donor/vendor and the official's family member, independent of the relationship between the donor/vendor and the official.
9. Q. An agency received two free tickets to a sporting event from a local vendor. The agency had discretion to determine who in the agency received the tickets. Each ticket was valued at \$40. If the Director of Transportation used the tickets, how does he/she report them?
  - A. The tickets are reportable in the amount of \$80 on the Director's Form 700 if the vendor is the type of source covered under the Director's disclosure category in the agency's conflict-of-interest code.

However, in some circumstances, the Director is not required to report the tickets on his/her Form 700. This occurs if the tickets are claimed as taxable income or if the tickets meet a public purpose identified in the agency's published ticket policy. In either case, the agency must complete the FPPC Form 802 and post it on the agency's website. The Form 802 will identify the Director's name and that he/she attended the event. If a Form 802 is posted, the director does not disclose the tickets on his/her Form 700.

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10. Q. Are frequent flyer miles reportable?
- A. No. Free tickets received under an airline's frequent flyer program that are available to all members of the public are not required to be disclosed.
11. Q. An agency received a large box of chocolates as a holiday gift from a local merchant. It was addressed to the agency and not to a particular employee. Is there a reporting requirement?
- A. Generally, the receipt of food and beverages is considered a gift. However, in this instance, the gift would only be reportable by an employee if (1) the vendor was a reportable source on the individual's Form 700 and (2) the employee consumed candy valued at \$50 or more.
12. Q. Is an interest-free loan made available by a depository institution to each state employee, including a member or employee of the Legislature who is a customer with direct deposit at the institution, for the purpose of covering the amount of salary or wages earned by the employee, but unpaid due to the delay of passage of the state budget, a gift or income under the Act?
- A. So long as the interest-free loan is available on equal terms to all state employees with direct deposit at the depository institution, the loan is neither a gift nor income under the Act, and is not reportable on the employee's Form 700.
13. Q. Do prizes received by participating employees in an agency's charity campaign drawing constitute gifts under the Act, subject to the Act's limits and reporting requirements, if they were donated to the agency by an outside source?
- A. Yes. The prizes are gifts, if donated by an outside source. This is not considered a bona fide competition because the raffle is only open to officials.
14. Q. Does a single ticket to a campaign fundraising event that was provided to an official directly from the campaign committee constitute a reportable gift?
- A. No. The committee or candidate may provide one ticket per event to an official for the official's own use and that ticket shall be deemed to have no value.
15. Q. Is a ticket or pass provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the public agency reportable on the official's Form 700?
- A. No. However, effective November 27, 2010, the agency must complete Form 802 and post the form on the agency's website. The form will identify the official's name and explain the ceremonial function.

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16. Q. Would a non-profit organization be the source of gifts conferred on officials when the non-profit organization pays for officials to travel nationally and internationally on trips related to climate policy? This trip is funded by donations from corporations and businesses with matters before state elected officials and state agencies.
- A. Generally, the reportable source of the gifts to officials would be the sponsors who donated money to the non-profit organization. Thus, the benefit of the gift received by the official would be pro-rated among the donors. Each reportable donor would be subject to the \$420 gift limit and identified on the official's Form 700. Contact the FPPC for specific guidance.
17. Q. May an official accept travel, lodging and subsistence from a foreign sister city while representing the official's home city?
- A. Travel and related lodging and subsistence paid by a foreign government, and not a foreign company, that is reasonably related to a legislative or governmental purpose are not subject to the gift limit. However, the payments must be disclosed on a Form 700. While in the foreign country, any personal excursions not paid for by the official must also be disclosed and are subject to the gift limit. If private entities make payments to the foreign government to cover the travel expenses, the gift limit will apply and travel payments will likely be prohibited. Please contact the FPPC for more information.
18. Q. An analyst for a state or local agency participates on a panel addressing new federal standards related to the agency's regulatory authority. If the analyst's travel payments are paid by the federal agency, must the official report the payment of the Form 700? Transportation and related lodging and subsistence were limited to the day immediately preceding, the day of, and the day immediately following the speech.
- A. The travel payments are not reportable or subject to any limits so long as:  
(1) A non-governmental source did not actually reimburse or fund the travel expenses. In that case, the gift of travel is not from the federal agency and may be reportable. Individuals should inquire as to the source of all travel payments. (2) The analyst is not also an elected state or local official or serving in a position covered by Government Code Section 87200. In that case, the travel payment is reportable.
19. Q. A state legislator and a planning commissioner were guest speakers at an association's event. Travel expenses were paid by the association and the event was held in California. Is this reportable?
- A. The payment is reportable, but not subject to the gift limits. In general, payments for speeches are not limited, but are reportable. The rules require that the speech be reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy; and the travel payment must be limited to actual transportation and related lodging and subsistence the day immediately preceding, the day of, and the day immediately following the speech.